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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,314	12/04/2001	Giovanni Benini	112740-360	9907
29177	7590	03/21/2006	EXAMINER	
BELL, BOYD & LLOYD, LLC P. O. BOX 1135 CHICAGO, IL 60690-1135			COLIN, CARL G	
			ART UNIT	PAPER NUMBER
			2136	

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/006,314

Applicant(s)

BENINI, GIOVANNI

Examiner

Carl Colin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12/27/2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. In response to communications filed on 12/27/2005, applicant amends claim 12. The following claims 1-12 are presented for examination.

1.1 In response to communications filed on 12/27/2005, Applicant has amended the specification to overcome the objection from the last Office Action. However, the amendment does not reflect any changes.

Applicant's remarks, pages 8-9, filed on 12/27/2005, with respect to the rejection of claims 1-12 have been fully considered but they are not persuasive. Applicant argues that the reference does not teach a priority level with wider ranging access rights. Examiner respectfully disagrees. Lenox does disclose defining CPL extensions (priority authorization level with wider ranging access rights) to the basic or default behavior (basic authorization level), page 25 states "CPL extensions to allow in-call or end-of-call operations will require an additional output, such as success to be added"... users may specify that the one with highest priority be tried first (see example on page 25). Also, in another embodiment as specified in the office action, page 40 provides an example where a priority authorization level is defined by the user which permits call from his boss to be directed to his mobile phone and all other calls to be directed to voicemail. Several examples of CPL extensions that define priority authorization level are disclosed throughout the disclosure. For at least the reasons cited above and in the Office Action applicant has not overcome the prior art and claims 1-12 remain rejected.

*Specification*

2. The disclosure is objected to because it contains embedded hyperlinks and/or other form of browser-executable codes (see page 2, line 3; page 10, line 5). Applicant is required to delete the embedded hyperlinks and/or other form of browser-executable codes. Applicant is suggested to enclose the hyperlinks in quotation marks, remove the "http://www" or appropriate correction to make them non-executable. See MPEP § 608.01.

*Claim Rejections - 35 USC § 101*

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 12 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The program recited in claim 12 without a computer-readable medium needed to realize the computer program's functionality is non-statutory functional descriptive material. Claim 12 reciting "The program having a command sequence ... comprising"; the claim is directed to a program per se and is not embodied in a computer readable medium, in addition it is not executed by a machine. It appears that the preamble recites a processor executing a method and the claim is claiming a program per se. See MPEP § 2106. IV.B.1(b).

See also "<http://www.uspto.gov/web/offices/dcom/bpai/prec/2003-2088.pdf>".

Appeal No. 2003-2088 Application 08/093,516  
claim 6 is not in one of the categories of § 101); In re  
Bonczyk, 10 Fed. Appx. 908 (Fed. Cir. 2001) (non-

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precedential)("fabricated energy structure" does not correspond to any statutory category of subject matter). Music, art, and literature, if claimed as such, do not fit into any of the statutory categories because they are not physical things or acts. Another example seen in the USPTO is a claim to a computer program per se, i.e., a claim reciting solely a program comprising a set of computer instructions for performing certain functions, instead of a series of steps performed on a computer. The instructions are not physical things which would qualify as a machine, manufacture, or composition of matter, and the claim is not recited as a series of steps as a process. Thus, a computer program per se is not statutory subject matter because it does not fall within any statutory class. See *In re Chatfield*, 545 F.2d 152, 159, 191 USPQ 730, 737 (CCPA 1976) (Rich, J., dissenting) ("It has never been otherwise than perfectly clear to those desiring patent protection on inventions which are new and useful programs for general purpose computers (software) that the only way it could be obtained would be to describe and claim (35 U.S.C. § 112) the invention as a 'process' or a 'machine.'"); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994) (memory containing a stored data structure was statutory subject matter, which has been interpreted to mean that programs stored on a physical medium are statutory subject matter as a "manufacture").

A series of steps which is not tied to a particular machine or apparatus, and which does not transform physical subject matter to a different state or thing, does not meet the statutory

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to

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which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4.1 **Claims 1-12** are rejected under 35 U.S.C. 103(a) as being unpatentable over Non-Patent Literature “A Language for User Control of Internet Telephony Services”, pages 1-60 to **Lennox et al**, in view of US Patent 6,476,833 to **Moshfeghi**.

4.2 **As per claims 1, 2, 6, 7, 11, and 12, Lennox et al** substantially teaches a method for using a data processing system as a function of an authorization, the method comprising the steps of: defining a CPL for location authorization that specifies specific instructions in the markup language using the data processing system to be executed relating only to location (see sections 6.2-7.1, pages 20-24) that meets the recitation of defining a basic authorization level relating to execution of specific instructions using the data processing system for at least one basic user of the data processing system. In another embodiment, figure 29, page 41 shows a complex example of an authorization level of a user that can be extended with a wider range of access rights as shown in figure 28, page 40 in comparison to the instructions of figure 29, for at least one priority user of the data processing system that meets the recitation of defining a priority authorization level, which permits execution of instructions with wider ranging access rights in comparison to the instructions of the basic authorization level, for at least one priority user of the data processing system. **Lennox et al** further suggests on page 40 that the method by which scripts are transmitted from client to servers must be strongly authenticated and servers should allow server administrators to control the details of what CPL operations are performed that meets the recitation of determining the

authorization level of a user before the execution of the instructions of the user; and discloses each script defining the instructions which the user can execute (figures 26-28 and pages 25, 40, and 43) that meets the recitation of using one of the basic file section and the priority file section, as a function of the authorization levels determined, to define the instructions which the user can execute.

**Lennox et al** also suggests determining the authorization level of the user before processing (pages 40 and 43). **Lennox et al** discloses in figures 28 and 29, syntax and instructions for the basic and extended authorization level that meets the recitation of noting at least one of the instructions and a syntax of the instructions for the basic authorization level in a basic file section; noting at least one of the instructions and a syntax of the instructions for the priority authorization level in a priority file section; **Lennox et al** discloses that the files comprise scripts (file sections), it is apparent that the files or PCL are stored in the computer (pages 5-7).

**Moshfeghi** in an analogous art teaches a method and apparatus for providing configurable markup language such as HTML and XML, that restrict users execution of instruction, the method disclosed storing user profile records, the profile records defining a authorization level relating to each user's execution of specific instructions using the data processing system for at least one basic user of the data processing system (see summary of invention, column 2, line 55 through column 4, line 32). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of **Lennox et al** to store the scripts into users profile records and use one of the basic file section and the priority file section, as a function of the authorization levels determined, to define the instructions which the user can execute as taught by **Moshfeghi** to provide an additional flash memory in the second encryption sub-module and a CMOS memory coupled with the dual-port memory via the first

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bus of the dual-port memory containing the encryption keys as taught in IBM Technical Disclosure Bulletin. One skilled in the art would have been lead to make such a modification because it would provide an easy way to control and filter user instructions by being responsive to the content or function privileges in the user's profiles as suggested by **Moshfeghi** (column 3, line 20 through column 4, line 32).

**As per claim 3, Lennox et al** discloses extended file or program section in figure 28 that is not defined in figure 29 to be executed by a processor other examples can be found on pages 47 et seq. that meets the recitation of wherein at least one of the basic file section and the priority file section does not itself define a program or program section, which can be executed by a processor (see figures 28 and 29).

**As per claim 4, Lennox et al** suggests defining the instructions of the basic authorization level and at least one of an additional instruction and an expanded syntax in comparison with the syntax of the basic authorization level for the priority authorization level (pages 51-52).

**As per claim 5,** the combination of **Lennox et al** and **Moshfeghi** discloses transmitting, by a user, an instruction file with instructions to the data processing system for determining the authorization level (**Lennox et al**, pages 25-27); checking the instructions contained in the instruction file as a function of the authorization level using one of the basic file section and the priority file section (**Lennox et al**, pages 25-27 and pages 38-48 that also disclose filtering by way of examples); and storing the instruction file for a later execution if it contains only instructions



which are valid for the authorization level which is determined (**Moshfeghi**, column 16, lines 20-40). Claim 5 is therefore rejected on the same rationale as the rejection of claims 1 and 2).

**As per claim 8, Lennox et al** suggests using voice transmission as a media type for Internet telephony services (see for example, Applicant's disclosure abstract, lines 1-4).

**As per claims 9-10**, the combination of **Lennox et al** and **Moshfeghi** discloses the limitation of wherein, for processing the instruction file, a same parser program is used for decomposing the instruction file into individual instructions and wherein a same application program is used for executing the instructions, irrespective of the authorization level (see **Lennox et al**, figures 28 and 29).

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5.1 The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as the art discloses the use of access level control using markup language and user access control relating to instructions that can be executed by a user.

US Patents: 6,931,532 Davis et al ; 6,317,742 Nagaratman et al ; 5,778,365 Nishiyama  
6,859,671 Brown.

5.2 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl Colin whose telephone number is 571-272-3862. The examiner can normally be reached on Monday through Thursday, 8:00-6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cc

Carl Colin  
Patent Examiner  
March 17, 2006

CHRISTOPHER REVAK  
PRIMARY EXAMINER

cel 3/18/06